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Report of the Working Group of Experts on People of African Descent on its mission to Italy

Note by the Secretariat

The report transmitted herewith contains the findings of the Working Group of Experts on People of African Descent on its visit to Italy, from 1 to 5 June 2015. In it, the Working Group presents the current legal, institutional and policy framework, as well as the measures taken to prevent racism, racial discrimination, xenophobia and Afrophobia and protect the human rights of people of African descent in Italy, underscoring positive developments and some gaps in implementation. The Working Group describes the situation, highlights good practices and the main challenges identified, and makes concrete recommendations.

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Report of the Working Group of Experts on People of African Descent on its mission to Italy*

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* Circulated in the language of submission only

I. Introduction

1. At the invitation of the Government of Italy, the Working Group of Experts on People of African Descent undertook a visit to Italy from 1 to 5 June 2015. The members of the delegation were Mireille Fanon Mendes-France, Ricardo Sunga III and Michal Balcerzak.

2. The Working Group thanks the Government of Italy for its invitation to visit the country and for its cooperation. It thanks the Ministry of Foreign Affairs and International Cooperation, the Interministerial Committee on Human Rights and the local authorities in Milan and Catania, in particular, for their support. It would also like to thank Cécile Kyenge for her collaboration. The Working Group regrets not having been able to meet high-level representatives of the Government.

3. The Working Group met with: representatives of several government departments and offices, including the Interministerial Committee for Human Rights, the Ministry of Foreign Affairs and International Cooperation, the Ministry of Justice, the Ministry of Public Health, the Ministry of Labour and Social Policies, the Ministry of Education, University and Research, the Guardia di Finanza and the National Office against Discrimination; representatives of the Prefecture of Milan and of the Prefecture of Catania; African activists and activists of African descent, lawyers and academics; and representatives of civil society, the Office of the United Nations High Commissioner for Refugees and the Italian Red Cross. During the visit, the Working Group visited Rome, Milan and Catania. It also visited a centre for Sudanese refugees in Rome, witnessed the reception of new arrivals at the port of Catania, in Sicily, and visited the reception centre for asylum seekers and refugees in Mineo, near Catania. The Working Group would like to thank all those it met with and all those who shared their views on the human rights situation of people of African descent in the country.

4. During the visit, the Working Group assessed the situation of people of African descent living in Italy, including recent refugees and migrants from Africa, and gathered information on the forms of racism, racial discrimination, xenophobia, Afrophobia and related intolerance that they face. It studied the official measures and mechanisms taken to prevent racial discrimination and protect victims of racism and hate crimes, as well as responses to multiple forms of discrimination. During the visit, the Working Group focused both on good practices and on the challenges faced in realizing the fundamental rights od people of African descent.

II. Background

A. Brief history of people of African descent in Italy

5. The history of people of African descent in Italy can be traced to the early Renaissance period. Prior to unification in 1861, Italian city states were involved in the trade in enslaved Africans. Bartolomeo Marchionni, a Florentine merchant and banker, emerged during the late fifteenth century as one of the biggest slave traders. During the 1490s, in fact, he had a monopoly on the trade in enslaved Africans from the Benin River.

6. Sub-Saharan Africans appeared in northern Italian records as early as in the mid-fourteenth century. Until the mid-fifteenth century, Italian merchants from the northern part of the peninsula acquired enslaved Africans mainly from Muslim merchants. Enslaved Africans were present in southern Italy much earlier, owing in part to the commercial and political relations between Sicily and the Kingdom of Aragon and to the proximity of the island to the markets of North Africa. It is estimated that Africans in Sicily accounted for

half of the servile population in the sixteenth century. Their numbers decreased sharply thereafter, as slave traders directed their supplies of captive Africans increasingly to the colonies in the Western hemisphere. To replace that source of slaves, traders in Sicily turned to Muslims from the Maghreb. Wherever in Italy Africans were for sale, their prices fell significantly below those of lighter-skinned slaves, which suggests that they were not as in demand as slaves from Central Asia or Eastern Europe and reinforces the impression of previous historians that Italians were prejudiced against dark-skinned people. The scarcity of Africans in Italian cities undoubtedly reinforced the exotic quality that some contemporary Italians attributed to them. Isabella d'Este and members of her family are among the best-known fifteenth-century patrons who avidly sought but had to make considerable efforts to find captive African children to add to their collection of enslaved servants, retainers and "objects" of curiosity. In part because they never constituted more than a very small proportion of the enslaved populations in the city states of Italy, rationales for their subjugation on the basis of skin pigmentation did not take hold as they had in Spain and Portugal.[1]

7. It is reported that the creation of black confraternities in Naples, Palermo and Messina was the result of the activity of different religious orders among enslaved persons and freedmen. The access of Africans (enslaved and freed) to the sacraments of penance, communion and marriage is well documented, while the ordination of African priests was very rare — one Ethiopian and one Congolese bishop, suggested by the Portuguese king in 1513, were exceptional cases.[2]

8. In 1937, the Second Italo-Ethiopian War led to the first Fascist laws promoting explicit racial discrimination. These were the laws against *madamato* — that is, the concubinage between Italian men and African women in colonized territories. At the same time, a campaign against the putative dangers of miscegenation started in Italy. The Church endorsed laws stating that "hybrid unions" had to be forbidden because of "the wise, hygienic and socially moral reasons intended by the State": the "inconvenience of a marriage between a White and a Negro" and the "increasing moral deficiencies in the character of the children".[3]

9. In the late 1930s, Benito Mussolini became a major ally of Nazi Germany. The influence of Nazi ideology on Italian Fascism could be seen in a press release by Mussolini dated 16 February 1938; Fascism then assumed an overtly racist stance in the "Manifesto of race", originally published on 14 July 1938 as "Fascism and the problems of race", in *Il Giornale d'Italia*.

10. Since the 1960s, there has been immigration to Italy from the former colonies in Africa, with relatively large numbers of people arriving from Eritrea, Ethiopia and Somalia.

11. Since the 1980s, owing largely to its geographic position, Italy has been a prime destination for migrants and refugees arriving by boat, especially from North Africa but also from sub-Saharan Africa. In the 1990s, in particular, the number of migrants from Africa was far larger than that from other continents.

[1] Sally McKee, "Domestic slavery in Renaissance Italy", *Slavery and Abolition*, vol. 29, No. 3 (2008).

[2] T.F. Earle and K.J.P. Lowe, eds., *Black Africans in Renaissance Europe* (Cambridge University Press, 2005).

[3] Sergio Luzzatto, "Pio XI e quel razzismo d'Africa", *Corriere della Sera*, 5 November 2008.

B. Current ethnic, demographic and political situation

12. Italy does not collect disaggregated data on the ethnic composition of its population, which makes it difficult to see and analyse the scale of the violations faced by people of African descent and for the Government and other stakeholders to take targeted action to address gaps in the protection of their human rights. The only official information available is on numbers of immigrants or foreign residents from African countries.

13. According to official statistics collected and analysed by the National Institute of Statistics (ISTAT) and the National Office against Discrimination and reported in the statistical dossier on immigration released in 2015, Italy is one of the main countries of immigration in Europe, with 5,014,000 foreign residents at the end of 2014 (99,000 more than in 2013), whereas the number of Italian citizens residing abroad was 4,637,000 (150,000 more than in 2013). The incidence on the Italian population (8.1 per cent) continues to be higher than the European average. Moreover, the total foreign presence in the country was estimated at 5,421,000 people, including non-European Union residents awaiting registration.

14. In 2014, 129,887 foreign nationals obtained Italian citizenship (an increase of 29 per cent compared with 2013, when a strong increase compared to the previous year had already been recorded). Mixed marriages slightly decreased (18,273 or 9.4 per cent of the 194,097 marriages registered in 2013), whereas marriages between foreign nationals were 3.8 per cent of the total (7,807 marriages).

15. The number of children born in Italy in 2014 from foreign-born parents remained almost stable (75,067, i.e. 14.9 per cent of the total number of births). Of the more than 1.1 million foreign minors, 814,187 were enrolled in school during the academic year 2014/15, that is 11,343 more than in 2013 (the highest increase, of more than 8.4 per cent, was recorded among minors born in Italy), whereas the number of Italian students continued to decrease (8,886,076, equal to a decrease of 0.6 per cent).

16. According to official statistics, cases of ethnic and racial discrimination persist. Of 1,193 complaints received by the National Office against Discrimination during 2014, some 990 were considered relevant. The mass media are reportedly those mainly responsible for such discrimination, with 291 confirmed cases (29.4 per cent of the total).

17. According to ISTAT data, the number of non-nationals residing in Italy on 1 January 2016 was around 5,054,000 (8.3 per cent of the population). The net international migration was of 128,000 units (273,000 immigrations against 145,000 emigrations), representing a rate of 2.1 per thousand inhabitants, which is equal to a quarter of the total recorded in 2007, a record year for international migration. Some 245,000 non-nationals were registered and some 28,000 Italians were repatriated. In addition, some 45,000 non-nationals and some 100,000 Italians emigrated. For the first time in 12 years, there were fewer than 1,300,000 changes in residence within the national borders, representing a decrease of 3 per cent compared with 2014.

18. On the basis of 2011 data, the European Network against Racism has estimated that there are some 350,000 people of African descent in Italy (residents of Italy who are citizens of a sub-Saharan African country).

19. Many migrants and refugees from Africa cross the Mediterranean Sea to Italy by boat. Once in Italy, asylum seekers are often unable to leave, as they are required by the Dublin regulations to stay in the country of first arrival in the European Union for processing.

20. Italy has a long history of emigration: an estimated 24 million Italians emigrated between 1876 and 1976.

III. Framework and steps taken to protect the human rights of people of African descent

A. Legal framework

21. The Working Group welcomes the steps taken by the Government to begin to address Afrophobia and racial discrimination against people of African descent in the country.

22. Italy has ratified international and European human rights instruments prohibiting racial discrimination, including the International Convention on the Elimination of All Forms of Racial Discrimination.

23. Its Constitution guarantees fundamental rights and freedoms and its laws prohibit discrimination on a number of grounds. The Italian legal system aims to ensure an effective framework to guarantee the fundamental rights of individuals, providing them with a range of provisions that have, at their core, the principle of non-discrimination, as set out in article 3 of the Constitution: "All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions". In addition to establishing the autonomous principle of so-called "substantial" equality and equal opportunities for all citizens in social, economic and political life, the Constitution expresses a rule of interpretation to be reflected in the implementation of the principle of so-called "formal" equality. Paragraph 2 of article 3 describes the guarantee of non-discrimination vis-à-vis the results produced or to be produced in concrete life relations, thanks to the primary constitutional imperative of removing the obstacles limiting the equality of citizens and pursuing the ultimate goal of the full development of the individual and effective participation in community life.

24. Italy has strong anti-discrimination legislation. Even more comprehensive legislation was adopted in 2003, when Italy incorporated into national law Council of the European Union directives No. 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and No. 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

25. The legal framework includes a range of criminal, civil and administrative provisions to combat racism and incitement to racial hatred, which is severely punished by the Criminal Code, in particular by Act No. 205 of 25 June 1993 (commonly referred to as the "Mancino Law"), as modified by Act No. 85 of 24 February 2006.

26. Article 3 of the Mancino Law allows judges to increase a sentence by up to one half if it was committed "with the purpose of discrimination or hatred based on ethnicity, nationality, race or religion, or in order to facilitate the activity of organizations, associations, movements or groups that have this purpose among their objectives".

27. The Mancino Law provides for ex officio investigations — even when the victim has not filed a formal complaint — into crimes committed within the meaning of its article 3.

28. Under standard Italian criminal procedure, the seriousness of the personal injury determines the extent of the State's obligation to investigate and prosecute. In the Italian criminal framework, personal injury is prosecuted ex officio, apart from the victim, if it has caused mental or physical harm requiring care for more than 20 days; voluntary personal injury causing less harm, excluding permanent damage or other aggravating circumstances (see arts. 583 and 585 of the Criminal Code), is prosecuted upon the request of the victim. The Mancino Law also makes it a crime to "instigate in any way or commit violence or acts of provocation to violence for racist, ethnic, national or religious motives", punishable by

between six months and four years of imprisonment, and to "propagate ideas based on racial superiority or racial or ethnic hatred, or to instigate to commit or commit acts of discrimination for racial, ethnic, national or religious motives".

29. The Government has emphasized that it is committed to eradicating racist and xenophobic attitudes and implementing these laws. For instance, the mayor of Verona was convicted for promoting racist ideas and the deputy mayor of Treviso was convicted for incitement to racial hatred.

30. Italian legislation (Legislative Decree No. 215/2003) aims to ensure non-discrimination and equality for all individuals regardless of their racial or ethnic origin (art.1) and allows for civil action to be taken for discriminatory acts committed by members of the public administration on the grounds of race and ethnicity or religion (arts. 4 and 5) and nationality (see Legislative Decree No. 286/1998 governing immigration and the status of foreign nationals, art.44).

31. A new law gives undocumented migrants access to hospitals for emergency health care and education without risk of being reported to the authorities.

B. Institutional and policy measures

32. During its visit, the Working Group was informed about a number of recent initiatives to address racism, including Afrophobia, in the country. It was told that a national action plan against racism and xenophobia had been developed and would soon be launched. It was also informed of plans to implement a programme of activities for the International Decade for People of African Descent (2015-2024), the theme for which is "Recognition, justice and development".

33. The national action plan against racism, xenophobia and related intolerance was reportedly adopted formally in September 2015. The plan is aimed at implementing a comprehensive strategy to support national and local policies to ensure the full respect of the equality principle and to counter discrimination, racism, xenophobia and related intolerance, in accordance with international and European law. The plan will make use of data collected over time to monitor discriminatory phenomena in key areas and address cases limiting access to basic services (education, health and labour), in both the public and the private sectors.

34. Since 2013, the National Office against Discrimination has been responsible for protecting individuals against all forms of discrimination, whether based on race, ethnic origin, religion, personal opinion, disability, age, sexual orientation or gender identity. The Working Group learned that the Office had carried out a number of initiatives to raise awareness of and promote action to eliminate discrimination and inequality. The Office works closely with the Observatory for Protection against Acts of Discrimination to encourage the reporting of hate crimes and ensure the right to non-discrimination and equality. There are also plans to establish a national working group on interactive dialogue between the Government and religious institutions.

35. The Working Group recognizes the efforts made by Italy in relation to the migrant crisis and, in particular, the increase in search-and-rescue operations recently carried out, which has saved thousands of lives. During the week it was in Catania, the Working Group was informed that around 4,000 people had arrived in Sicily. In the context of the economic crisis, the humanitarian response is particularly commendable. The Working Group believes that finding effective long-term solutions depends on action and solidarity at the European and international levels. The gravity of the situation demands that urgent steps be taken, in particular by the European Union and its member States, to implement the Council of the European Union agreement of September 2015 on relocation and resettlement quotas

for approximately 160,000 migrants and refugees from Italy and Greece, in line with the principle of solidarity shared by all European countries.[4] The situation also calls for the international community to take action and put in place policies of development that are in accordance with the framework of the right to development and the Sustainable Development Goals in order to avoid young people having to leave African countries because of extreme poverty.

36. The Working Group notes the recent efforts made, including the handbook for integration published by the Ministry of Labour and Social Policies and the "Direct contact with second generations" campaign, as well as the initiatives by the Ministry of Education to increase the inclusion of foreign students in the Italian school system. Despite these efforts, however, racial discrimination, Afrophobia and racism persists and people of African descent continue to be the least integrated, most marginalized victims of racial profiling. The Working Group regrets that the texts are not followed by adequate implementation.

37. The Working Group welcomes civil society's initiatives to encourage inclusive relations through the promotion of intercultural and interreligious understanding, taking into account the many ways in which the human rights violations experienced by people of African descent intersect. It commends the work done by volunteers and organizations to both assist new arrivals and to promote and protect the human rights of people of African descent. The Working Group is concerned by the lack of State funding for such organizations and by the lack of reparations available to persons of African descent, migrants and asylum seekers faced with Afrophobia, racism, hate speech and violence, including police violence, racial profiling and stigmatization.

IV. Manifestations of racial discrimination, xenophobia and Afrophobia

A. Racially motivated crimes, hate speech and incitement to hatred

38. The Working Group is concerned about the rise of xenophobia across Europe caused by the political manipulation of people's fears about the increase in the number of migrants. In Italy, the Working Group has seen how people's fears have been manipulated to promote a racist anti-immigrant agenda, disseminating false information and inciting hatred against people of African descent and migrants. No country is free of racism and Italy is not an exception. The Working Group is particularly concerned about incidents of racially motivated crime, hate speech and incitement to hatred in the country.

39. The Working Group is deeply concerned by racist discourse in politics targeting public figures and politicians of African descent and the immunity that has shielded parliamentarians who have made racist remarks. Too often immunity and impunity for racism creates an enabling environment for racist abuse to be perpetrated at all levels of society, even if some ad hoc punitive measures have been adopted.

40. The Working Group is concerned that in some cases members of parliament have been shielded from prosecution. The Working Group is following the case of former Member of the European Parliament Cécile Kyenge, who was born in the Democratic Republic of the Congo and has Italian citizenship, and who has been the victim of hate speech and racist and sexist insults, in particular by Northern League (Forza Nuova)

[4] See http://europa.eu/rapid/press-release_STATEMENT-15-5697_en.htm

politicians and other Italians. During its visit, the Working Group followed up on its communication to the Government expressing concern, following the 28 January 2015 decision of the Immunity Board of the Senate not to sanction Deputy President of the Senate Roberto Calderoli for his 2013 statement describing Ms. Kyenge, then Minister for Integration, as an "orangutan". The Immunity Board concluded that Mr. Calderoli's words did not have racist connotations but were pronounced during a speech within a broader political context. All political parties' representatives expressed opinions in favour of the applicability of article 68 in that case and the final vote confirmed the rightness of the Board's conclusion.

41. The Working Group stated that Mr. Calderoli's public statement about Ms. Kyenge did have racist connotations and is in contravention with the absolute prohibition of racial and ethnic discrimination stipulated in international human rights law. The Working Group underlined the key role that political leaders and political parties can and ought to play in combating racism and encouraging political parties to ensure that their members refrain from public statements and actions that encourage or incite racism, racial discrimination, xenophobia, Afrophobia and related intolerance.

42. With regard to the use of Afrophobic or xenophobic language in politics, the Government informed the Working Group that by law the judicial authorities are entrusted with verifying the existence of criminal content in the documents, speeches and programmes of political representatives. It recalled that some public and elected officials have been prosecuted for incitement to racial hatred and promoting racist ideas.

43. The Working Group is also concerned about racially motivated insults in sport, such as those faced by Italian national football player Mario Balotelli and several other players of African descent playing in the Italian football league, including Kevin-Prince Boateng and Paul Pogba. In addition to experiencing verbal insults, Afrophobic chants, violence and abuse during matches and training sessions, players have also been targeted with racist messages through social media.

44. In that context, the Working Group welcomes efforts made by the Government to address racism in sport. According to information provided by the Government, Italian legislation has been progressively amended so as to provide for criminal and administrative punishments for those responsible for incitement to hatred. The Italian legislation in force (the Mancino Law) calls for measures to be adopted to counter discriminatory conduct during sporting events. In addition, the Sports Justice Code establishes that each act of discriminatory conduct must be sanctioned, whenever it is recognized and whether it is a direct or an indirect offence: such acts include denigration or insults motivated by race, colour, religion, language, sex, nationality, territorial or ethnic origin, and acts that constitute a means of ideological propaganda prohibited by law or that support acts of discriminatory conduct. In such circumstances, the football player, the football team manager, the associates and the partners found guilty of engaging in such acts would be sanctioned. Football clubs are reportedly responsible for the bringing in or the exhibition of pictures, slogans, symbols, emblems and similar objects containing racist expressions and for discriminatory manifestations (e.g., chorus chants and shouting) from supporters; they are also responsible for each declaration and the conduct of the club's managers, associates and partners if those persons are able to fuel discriminatory conduct. Before football matches, all clubs are obliged to inform the public about potential sanctions for the discriminatory conduct of football teams' supporters.

45. The Government informed the Working Group that several regulations have entered into force to prevent racist or discriminatory conduct since the introduction of a general principle of non-discrimination into the Code of Conduct of the Italian National Olympic Committee, which states that registered members, affiliates and others subject to its authority should abstain from all discriminatory behaviour, whether based on race, ethnic or

territorial origin, sex, age, religion or political or philosophical opinion. Relevant new provisions were reportedly introduced by the adoption of Act No. 146 of 17 October 2014 on urgent measures against unlawful and violent acts during sporting events. That law extends the applicability and the duration of the preventive measures concerning bans on access to sporting venues. Exclusion orders can be imposed by the provincial chief of police for a three-year period (or for a period of between five and eight years for recidivists) to those persons responsible for group violence, whenever the individual's active involvement has been ascertained. Moreover, it has a preventive impact when imposed on persons reported or convicted for displaying offensive, violent or racist banners, for crimes against the public order and serious crimes such as robbery, possession of explosives and drug dealing. Exclusion orders may be also imposed against those who have participated, even abroad, in particular situations jeopardizing public security and order. The legislation in force also makes it possible to suspend or not to start a football match in cases of manifestations of racism and intolerance. In 2014, 32 cases were recorded and 15 supporters have been reported to the competent authorities.

46. The Government also reported that in 2013 a task force was established within the Ministry of the Interior to provide security at sporting events and identify new initiatives to counter racism in sport. At the beginning of the 2014/15 football season, the task force decided to intensify its actions to fight racial, ethnic and religious discrimination during sporting events, to identify some strategic guidelines to monitor the phenomenon and to launch awareness-raising campaigns and educational activities in schools regarding the laws applicable in cases of racism and intolerance during sporting events.

47. Racist hate crimes by far-right white supremacist movements are also of concern in Italy. Racism-fuelled propaganda and anti-immigrant sentiments disseminated online are normalizing racism. Such groups are exploiting fears linked to the financial crisis, unemployment, extremism and global health concerns such as the Ebola virus to promote an Afrophobic and racist agenda. In 2013, the National Office against Discrimination documented that complaints of online racism constituted 30.9 per cent of all cases involving the media.

48. One particular case, which occurred in January 2010 in Rosarno, in the southern region of Calabria, earned international attention after two separate violent attacks on seasonal migrant workers of African descent led to a violent protest by large numbers of those workers and further retaliatory attacks by local residents. The authorities did respond with long-overdue attention to the exploitation and abuse of seasonal agricultural workers, but according to civil society reports the racist dimension of the attacks has been consistently minimized. The Working Group noted that such behaviour helps to maintain structural and institutional racism.

49. It has been reported that the Government has failed to identify racist and xenophobic violence as a serious issue in Italy and to take action to address it. The Working Group was informed by civil society representatives that part of the problem is that the true extent of racist and xenophobic violence in Italy is unknown. Italy has only recently begun to collect data on hate crimes, and there is underreporting owing to a lack of trust. Civil society is monitoring reports of racist and xenophobic crimes in the media, which gives an idea of the scale of the problem, but the Working Group is concerned that the State does not take that information into consideration.

50. Afrophobia and racial discrimination are manifest in the lack of protection afforded to people of African descent, a vulnerable group, in the difficulty that people of African descent have in gaining access to justice and in the failure to prosecute and provide reparation and remedy. Correcting this unacceptable situation must be done through education and leaders must strongly respond to and publicly condemn these incidents, as

well as take action to bring the perpetrators to justice and prevent a further rise in hate crimes.

B. Racial profiling, law enforcement and the criminal justice system

51. The Working Group was informed by civil society representatives that the Italian criminal justice system discriminates against foreigners and people of African descent. Reportedly, 40 per cent of detainees in pretrial detention are Africans or people of African descent, while 10 per cent in detention in general are Africans or people of African descent. Problems in accessing counsel and an interpreter have also been reported. The Working Group heard reports of racial profiling and that Africans and people of African descent are more likely to be asked to show identity documents.

52. In Italy, immigration has been associated with insecurity since the second half of the 1990s. Both criminal and immigration laws have resulted in a "criminalization" of migrants, including Africans and people of African descent. The Immigration Act of 1998 and the "Bossi-Fini Law" of 2002 introduced serious sanctions against irregular migrants. The foreign population in Italian prisons started to rise, reaching the record share of 37.09 per cent in 2010. Towards the end of the 1990s prison overcrowding became a serious concern for the Government. Both the European Court of Human Rights and the European Court of Justice sentenced Italy for a violation of article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) for the degrading prison conditions experienced by many detainees. As a consequence, the Parliament and the Government approved various measures to remedy the problem, including the release of inmates serving short prison terms.

53. Migrants are commonly punished for less serious crimes than Italians, mostly related to drugs, prostitution or illegal immigration. On 31 December 2014, foreign prisoners constituted 32.56 per cent of the total prison population. The Working Group deplores the lack, at this level, of disaggregated data. During the visit, civil society representatives reported that new anti-immigration campaigns were appearing. The Working Group is concerned that, as a result of those campaigns, the number of inmates (especially immigrants) will start to rise again. The criminalization of migrants is of deep concern to the Working Group.

C. Disparities in access to health, education, housing and employment

54. The Working Group is concerned about the discrimination faced by people of African descent in access to education, health, employment and housing in Italy.

Education

55. The Working Group was concerned to learn of the racial discrimination, victimization, violence and harassment inflicted on children of African descent in schools by pupils and their teachers. It was reported that some teachers and others working in educational institutions lack sufficient training to deal with racial discrimination and the diversity of contemporary Italian society. The Working Group noted that the education curriculum does not contain sufficient information about the history of Italy and its role in the enslavement of Africans and in colonialism or about the ways in which Africa has contributed to the evolution of human history. This lack of understanding perpetuates modern-day racism against Africans and people of African descent.

56. According to data collected by the Ministry of Education, University and Research, during the academic year 2014/15 there were 802,844 foreign students in Italian schools

(roughly 9 per cent of the total). Most came from Algeria, Burkina Faso, Cameroon, Côte d'Ivoire, Egypt, Ghana, Morocco, Nigeria, Senegal and Tunisia. In a 2013 report, the Ministry noted that nationals of Eritrea, Guinea and Somalia were at particular risk of dropping out.

57. Representatives of the Ministry of Education, University and Research informed the Working Group that migrant children had the same rights to education and health as Italian minors. The Government reported that a number of steps had been taken to address racism in schools, including the passage of a ministerial directive dated 27 December 2012 on special educational needs, which aims to ensure more inclusive practices in classrooms through individualized and personalized educational plans. Migrant pupils too can benefit from the directive.

58. In 2013, a memorandum of understanding was signed by the Observatory for Protection against Acts of Discrimination and the Ministry of Education, University and Research to promote joint educational activities against all forms of racism and discrimination in schools. Specific guidelines dated 2014 provide a regulatory framework and suggestions for an inclusive approach to school organization and teaching. For example, each class can host a maximum of 30 per cent migrant pupils to facilitate effective inclusion. Since 2013/14, all schools have had to draft an annual plan on inclusion.

59. In 2014, the Ministry of Education, University and Research launched national guidelines aimed at lowering school dropout rates and supporting the educational achievement of each student. The Working Group was also informed about the National Observatory for the Integration of Foreign Students, established within the Ministry of Education, University and Research, which analyses educational policies and develops proposals for specific educational programmes that incorporate an intercultural approach to addressing racism, racial discrimination and prejudice at school. The Working Group welcomes these recent initiatives and encourages the authorities to ensure that they are implemented and that there is a special focus on children of African descent as a group that faces racial discrimination and Afrophobia to ensure that their right to education is respected and more generally that all their rights as children are respected.

Health

60. The Working Group was informed that while the national health system should provide all individuals in Italy, irrespective of their status and nationality, with essential health-care services in every ordinary or emergency case, racial discrimination continues to prevent access to health care. Migrants of African descent reportedly face additional barriers in accessing health care and other services. Doctors allegedly often do not believe the statements of people of African descent and make wrong assumptions based on racial prejudice. Moreover, negative stereotypes and poor knowledge of certain diseases can lead to differential treatment of patients of African descent. The Working Group was informed that in some cases during the Ebola outbreak a combination of racial bias and ignorance led to discrimination and panic despite the fact that the Government had provided information and that, to prepare medical personnel, particularly on the Ebola outbreak, a network of hospitals capable of dealing with infectious diseases had been created. The Government had also provided the public with targeted information about diseases in general and again every time an alert was triggered by the emergence or re-emergence of a disease.

61. In Milan, the Working Group was pleased to learn about the work of Naga, a non-governmental organization working to promote and protect the rights of all foreign nationals, as well as Roma and Sinti, without discrimination. Naga volunteers offer primary and specialist care, psychological counselling and psychiatric guidance, among other services, to local entities. In addition, Naga is committed to the constant monitoring and reporting of violations of rights such as the right to health, with the idea that defending the

rights of foreign citizens means defending the rights of all. All services are offered free of charge.

62. The existence of non-governmental organizations that provide health care to undocumented migrants indicates that there is a gap in the realization of the right to health. Moreover, there are variations among the regions in terms of providing health-care services. In Lombardy, for instance, emergency health care is given to undocumented migrants but longer-term health care, for example for cancer, is not.

Employment

63. With regard to employment, the Working Group was informed that people of African descent who are irregular migrants are often employed in construction, agriculture, gardening and clothes manufacturing and suffer exploitation in the form of unfavourable contracts, unequal pay and poor working conditions. The severe exploitation of people of African descent by organized criminal groups was reported in the areas of agriculture, construction, domestic help and labour-intensive manufacturing.

64. The Government informed the Working Group that steps were being taken in the area of employment. It reported that the Ministry of Labour and Social Policies was strongly committed to countering unreported labour, non-European Union citizens' exploitation and *capolarato*. It also informed the Working Group about article 12 of Law No. 148/2011, which introduces the offence of "illicit intermediation and labour exploitation", to be sanctioned with a prison term of between five and eight years and a fine of between 1,000 to 2,000 euros for each exploited worker. The monitoring of ordinary and extraordinary activities has entailed the establishment of ad hoc task forces at the provincial and regional levels, also with a view to exchanging good practices and experiences in the field. The ad hoc task forces involve the police, the carabinieri, the Guardia di Finanza and local health units in performing proper investigations in all relevant sectors, as occurred in the agricultural sector in southern Italy in 2016. Furthermore, the creation in 2014 of a "control room" for the network on the quality labour in the agricultural sector at the National Institute for Social Security, composed of agricultural professionals and representatives of trade unions, the Ministries of Labour and Social Policy and of Finance, and of the Conference of Regions, aims at evaluating basic prerequisites for the admission of companies, thereby encouraging inspection activities and the implementation of policies aimed at countering all forms of exploitation and *capolarato*. Two protocols have been signed in 2016 affecting the agricultural sector: one against *capolarato* and labour exploitation and one against *capolarato* and unreported and illegal labour. The protocols provide for the development of a new permanent network to carry out concrete joint interventions, including through the exchange of information among local actors, especially in those areas most exposed to criminality.

Housing

65. Despite the government programmes for integration, refugees, including those from Africa, are not sufficiently integrated into Italian society. During its visit, the Working Group visited a centre for Sudanese refugees created in 2004 and hosted by the municipality of Rome. It has been self-managed by around 120 refugees or asylum seekers, some of whom have been living in the centre for 10 years. The Working Group was informed that the residents had received a formal written communication from the municipality on 18 May 2015 telling them that they would have to leave the centre by the end of that month. During its visit, the Working Group was informed that the date had been postponed for another one or two months. It was concerned that the eviction notice did not contain an explanation; the residents had not been given sufficient time to leave the centre and no alternatives had been provided, demonstrating the lack of an integration plan for

refugees in Rome specifically and in Italy more generally. The obligation of States to refrain from and protect against forced evictions arises from several international legal instruments that protect the human right to adequate housing and other related human rights.

Migrants and asylum seekers

66. In Catania, Sicily, the Working Group witnessed the difficult situation in which the authorities found themselves owing to the large number of new arrivals by sea and the economic crisis. In 2014, there were reportedly 170,000 landings and, as at the time of the visit, as many as 140,000 landings had already taken place in 2015. The Working Group was invited by the Prefect of Catania to observe the arrival of migrants and asylum seekers in the port. The Working Group noted that all those arriving received medical care and basic necessities such as food, clothing and drinking water. While there was a noticeable presence of law enforcement officials, the Working Group noticed that most of the rescue and relief operation was organized by local Red Cross volunteers. The Working Group endorses the findings of the Special Rapporteur on the human rights of migrants that despite a challenging economic and political climate Italy has taken bold initiatives to address the unprecedented number of migrants and refugees arriving by boat. It agrees that European Union member States must collectively support front-line States such as Italy in providing a sustainable response that ensures full respect for the human rights of migrants.

67. The Working Group visited the centre for asylum seekers and refugees in Mineo, which is where many migrants stay while they wait for their claims to be processed. It heard disturbing allegations of overcrowding, bullying, intimidation, withheld daily allowances, insufficient psychological support and health checks and frustration over the lengthy asylum process. Some 4,000 migrants from different countries were living in the Mineo centre at the time of the visit, well above its capacity of 2,000. Most were from Nigeria.

68. At the Mineo camp, the Working Group found that the protracted waiting time that asylum seekers had to endure for their claims to be processed had devastating effects on their well-being. The asylum seekers told them of their frustration induced by waiting for their asylum applications to be processed, which takes anywhere between 12 and 18 months. The Working Group observed that people in the Mineo camp did not want to talk for fear that doing so would adversely affect their applications. According to some sources, tenders for services to the Mineo camp had been directed by corrupt government officials to companies controlled by organized criminal groups, which reportedly provide cheaper services than commercial companies would and pocket the difference. The substandard services at the camps are allegedly a consequence of corrupt officials siphoning money from government contracts.

69. In that connection, the Working Group was informed that in 2014 the Italian authorities carried out an investigation into corruption within the municipal government of Rome that revealed the existence of a criminal network; individuals and politicians were arrested. Salvatore Buzzi, President of the Eriches 29 consortium, which controlled reception centres around Rome, was arrested in the investigation. The national anti-corruption authority was asked to carry out an investigation into a number of suspect public contracts and in June 2015 the Italian police reportedly arrested a large number of people suspected of being part of a network of corrupt politicians, officials and business people in Rome accused of rigging public contracts to manage migrant reception centres. According to reports, warrants were also issued against other people in the area around Rome, in L'Aquila in central Italy and in Catania and Enna in Sicily. The investigation uncovered a system designed to ensure that a cartel would win lucrative contracts to manage migrant reception centres, exploiting the growing refugee crisis in the Mediterranean Sea.

D. Intersectionality of multiple forms of discrimination

70. During the visit, the fact that multiple grounds of discrimination intersected with one another was reported to the Working Group, which heard accounts of discrimination on the basis of pigmentation of skin, ethnicity, nationality, sex and religion, among others. Racism and the way in which other grounds of discrimination intersect in Italy need to be studied further to identify causes and effects and to develop strategies.

V. Conclusions and recommendations

A. Conclusions

71. The Working Group would like to reiterate its satisfaction at the willingness shown by the Government to engage in dialogue, cooperation and action to combat racial discrimination and implement the human rights recommendations received in that regard. The Working Group hopes that its report will support the Government in that process.

72. The Working Group is concerned about the invisibility of people of African descent in Italy. It takes the opportunity to highlight that, as set out in the Durban Declaration, it is essential for all countries to recognize the existence of their population of African descent and the cultural, economic, political and scientific contributions made by that population, and recognize the persistence of racism, racial discrimination, xenophobia and related intolerance that specifically affect them, and recognize that their long-standing inequality in terms of access to, inter alia, education, health care and housing has been a profound cause of the socioeconomic disparities that affect them.

73. Despite the positive measures taken by the Government to address racism, Afrophobia and racial discrimination, the Working Group is concerned about the discrepancy between the official discourse and legal framework to counter racism and the experiences of racial discrimination, xenophobia and hate speech, which points to the lack of effectiveness of the measures taken so far. It is also fundamentally concerned about the fact that the existence of people of African descent in Italian society continues not to be fully recognized.

74. The Working Group is concerned by the rise of xenophobia across Europe caused by the political manipulation of people's fears about the increase in migrants. In Italy, the Working Group has seen how people's fears have been manipulated to promote a racist anti-immigrant agenda, disseminating false information and inciting hatred against people of African descent and other migrants. In that context, the Working Group is concerned that immunity has been used to shield parliamentarians who have made racist remarks.

75. No country is free of racism and Italy is no exception. The Working Group is particularly concerned about incidents of racially motivated crime, hate speech and incitement to hatred. Racial discrimination is also manifest in the difficult access to justice and the failure to prosecute and provide a remedy for Africans and people of African descent.

76. While advances have been made in respect of protection of migrants and asylum seekers, such as the policy against pushbacks and the law giving undocumented migrants access to hospitals for emergency health care and education

without risk of being reported to the authorities, there are opportunities to strengthen the legal protection of their rights.

77. The lack of knowledge of the history and of the role played by the Italian State during the slave trade, of the colonial past of Italy and of the importance of the cultures of Africa is contributing to institutional and structural racism targeting Africans and people of African descent.

B. Recommendations

78. The recommendations below are intended to assist Italy in its efforts to combat all forms of racism, Afrophobia, racial discrimination, xenophobia and related intolerance.

79. The Working Group urges Parliament to publicly condemn racist, Afrophobic and xenophobic acts and the Government to ensure accountability and an effective remedy to counter any tendency, especially by politicians, to stigmatize and negatively stereotype people of African descent or use racist propaganda for political purposes. Intellectual and media awareness-raising on racism, Afrophobia and racial discrimination is also necessary.

80. A review of immunity laws and the manner in which they are interpreted is urgently needed so that immunity is not upheld in cases of racially motivated hate speech.

81. The Working Group encourages the Government to collect disaggregated data on persons who self-identify as either Italians of African descent or as Africans to ensure that all plans, projects and programmes address and protect their rights and are based on a better understanding of gaps. Data on representation should also be collected and disaggregated by ethnicity. People of African descent should be better represented in the judiciary, the prosecution service and the police, as well as in the mechanisms for refugee status determination and among immigration officials and prison officials.

82. Data should be collected and analysed to assess racial discrimination in the criminal justice system. Laws that prohibit racial profiling by law enforcement agencies should also be considered. Steps should be taken to ensure detainees' access to counsel and an interpreter.

83. The Working Group encourages the Government to ensure that the national action plan against racism and xenophobia includes people of African descent as a specific group facing racism, racial discrimination, Afrophobia, xenophobia and related intolerance, and to appoint a focal point within the National Office against Discrimination.

84. The Working Group urges the Government to establish a national human rights institution that is in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and, in the interim, take steps to make the National Office against Discrimination independent and fully equipped to investigate all forms of human rights violations, including acts of racism, racial discrimination, xenophobia, Afrophobia and related intolerance.

85. The Working Group recommends that the history of the trade in Africans and of colonialism be studied and that that history be included in the school curriculum, to do justice to all those who suffered and continue to suffer from the use of race as a criterion for classifying humans in society.

86. **The content of training courses for teachers and others working in educational institutions should focus on the principles of equality and non-discrimination and on other measures designed to ensure that issues affecting people of African descent are addressed. There should also be more teachers, as well as non-teaching staff, of African descent. The Working Group recommends making targeted efforts to support refugees through vocational training and other job-seeking opportunities. Laws should include special measures for integrating refugees and migrants into Italian society. Affirmative action by way of educational, housing, health-care and employment opportunities should be taken.**

87. **Evictions must be carried out lawfully, only in exceptional circumstances and in full compliance with the relevant provisions of international human rights law. The authorities should cease the forced eviction of people of African descent and set out procedural protections based on international law. As regards the centre for Sudanese refugees, the Working Group encourages the municipality of Rome to respect the residents' right to information, full consultation and participation.**

88. **The Working Group recommends that the Ministry of the Interior increase the number of territorial commissions to expedite the review of claims for asylum and to decrease the waiting time in reception centres.**

89. **It also recommends reforming the law regulating Italian citizenship in order to grant citizenship to children born in Italy of foreign citizens and minors entering the country and expedite the process for adults.**

90. **It further recommends that the Government adopt laws guaranteeing the right to counsel and the right to an interpreter at all stages of the asylum proceedings, including at the initial stage, when asylum seekers apply for refugee status.**

91. **The Working Group recommends that people of African descent be included in the relevant mechanisms as officials with the duty to decide the refugee status of applicants.**

92. **The Working Group urges the Government to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as Protocol No. 12 to the European Convention on Human Rights, and recommends that it enter into bilateral treaties to ensure respect for the rights of migrant workers and their families.**

93. **The Working Group reiterates the recommendations made by the Special Rapporteur on contemporary forms of racism and racial discrimination, xenophobia and related intolerance following his visit to Italy in 2006, which are still relevant, and emphasizes the recommendations made by the Special Rapporteur on the human rights of migrants regarding European Union border management.**

94. **The Working Group calls on European Union member States to support the efforts of the Government of Italy to rescue boatloads of migrants and asylum seekers by making good on their commitment to relocate thousands of people from Italy to other member States.**

95. **The Working Group suggests broadening the law to give undocumented migrants access not only to hospitals for emergency health care and to schools without running the risk of being reported to the authorities, but also to other basic human rights. It also proposes more pathways to citizenship for migrants, including undocumented migrants.**

96. **The Working Group encourages the Government of Italy to undertake impact-oriented activities in the framework of the International Decade for People of African Descent and the theme of the Decade, which is "Recognition, justice and development", to bridge the gaps between policies and practice, including through the implementation of relevant recommendations for achieving recognition, justice and development for Africans, people of African descent and all Italians.**

97. **The Working Group regrets that the provisions of article 3 of the Constitution concerning equality do not also apply to non-citizens and that it is not clear whether the offence of racial discrimination in the legislation of the State party includes both the purpose and effect of the prohibited acts (see also art. 1 of the Constitution).**

98. **In the light of Committee on the Elimination of Racial Discrimination general recommendation No. 30 (2005) on discrimination against non-citizens, the Working Group urges the Government to ensure that non-nationals enjoy, in conditions of equality, protection and recognition before the law. It also recommends that the Government ensure that its laws and policies do not discriminate, deliberately or not, on the basis of race, colour, descent or national or ethnic origin. The Working Group emphasizes the importance of ensuring that the legislative guarantees against racial discrimination apply to non-citizens, regardless of their immigration status.**